

# **HOUSE . . . . . No. 4402**

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[Filed by Mr. Jones of North Reading and other members of the House].

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## **The Commonwealth of Massachusetts**

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### **RESOLUTIONS FILED BY REPRESENTATIVES:**

Bradley H. Jones, Jr.	Paul J.P. Loscocco
Mary S. Rogeness	Patrick M. Natale
George N. Peterson, Jr.	Marie J. Parente
John A. Lepper	Jeffrey D. Perry
Viriato Manuel DeMacedo	William Smitty Pignatelli
Demetrius J. Atsalis	Elizabeth Poirier
Mark J. Carron	Karyn E. Polito
Edward G. Connolly	Susan W. Pope
Robert K. Coughlin	Richard J. Ross
Lewis G. Evangelidis	Todd M. Smola
James H. Fagan	Robert P. Spellane
Paul K. Frost	Kathleen M. Teahan
Colleen M. Garry	Walter F. Timilty
Shirley Gomes	Anthony J. Verga
William G. Greene, Jr.	Daniel K. Webster
Donald F. Humason, Jr.	Robert S. Hargraves
Daniel F. Keenan	Bradford Hill
Brian Knuutila	Susan Williams Gifford
Peter V. Kocot	John P. Fresolo
Paul Kujawski	

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In the Year Two Thousand and Five.

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### **RESOLUTIONS REAFFIRMING THE REFERENCE TO "ONE NATION UNDER GOD" IN THE PLEDGE OF ALLEGIANCE.**

- 1    *Whereas*, It is historical fact that this country and this common-
- 2    wealth were founded on principles of religious freedom by
- 3    founders, many of whom were deeply religious; and
- 4    *Whereas*, On November 11, 1620, prior to disembarking for the
- 5    shores of America, the Pilgrims signed the Mayflower Compact

6 that declared: “having undertaken, for the glory of God and the  
7 advancement of the christian faith and honor of our King and  
8 country, a voyage to plant the first colony in the northern parts of  
9 Virginia”; and

10     Whereas, These principles of freedom survive to this day,  
11 having been embodied in first amendment to the Constitution and  
12 article II of the Massachusetts Declaration of Rights, which  
13 promise the freedom of religion by guaranteeing its free exercise  
14 and by prohibiting the government from establishing any religion;  
15 and

16     Whereas, The Pledge of Allegiance was written by Francis Bel-  
17 lamy and first published in the September 8, 1892 issue of The  
18 Youth’s Companion; and

19     Whereas, The pledge of Allegiance has for over 50 years  
20 included references to the U.S. flag, the country, to our country  
21 having been established as a union “under God” and to this  
22 country being dedicated to securing “Liberty and Justice for All”;  
23 and

24     Whereas, the notion that a belief in God permeated the  
25 founding of our nation was well recognized by Justice Brennan,  
26 who wrote in *School District of Abington Township V. Schempp*,  
27 374 U.S. 203, 304 (1963) (Brennan, J. Concurring), that “[T]he  
28 reference to divinity in the revised Pledge of Allegiance may  
29 merely recognize the historical fact that our nation was believed  
30 to have been founded “under God” thus reciting the pledge may  
31 be no more of a religious exercise than the reading aloud of Lin-  
32 coln Gettysburg Address, which contains an allusion to the same  
33 historical fact”; and

34     Whereas, This house recites the Pledge of Allegiance at the  
35 start of every calendar day; and

36     Whereas, On June 26, 2002, the Ninth Circuit Court of Appeals  
37 held that the Pledge of Allegiance is an unconstitutional endorse-  
38 ment of religion, stating that it “impermissibly takes a position  
39 with respect to the purely religious question of the existence and  
40 identity of God,” and places children in the “untenable position of  
41 choosing between participating in an exercise with religious con-  
42 tent or protesting”; and

43     Whereas, In August, 2005, The Fourth Circuit Court of Appeals  
44 upheld the recitation of the pledge in Virginia schools in the

45 opening of the court, Judge Karen Williams cited a number of his-  
46 torical references including the Declaration of Independence's ref-  
47 erence to the "Creator", the Constitution's reference to the "Year  
48 of Our Lord," the First Congress' urging President Washington to  
49 "Proclaim a day of public thanksgiving and prayer," and the  
50 Supreme Court's opening with "God save the United States and  
51 this Honorable Court"; and

52     *Whereas*, Judicial rulings by the United States Court of Appeals  
53 for the Fourth and Ninth Circuits have thereby split on the issue of  
54 whether the Constitution allows the recitation of the Pledge of  
55 Allegiance in public schools; and

56     *Whereas*, On September 14, 2005, the U.S. District Court for  
57 the Eastern District of California ruled that, based on the previous  
58 decision by the Ninth Circuit Court of Appeals, the reference to  
59 one nation "Under God" in the Pledge of Allegiance violates  
60 school children's constitutional rights; and

61     *Whereas*, The ruling of the U.S. District Court for the Eastern  
62 District of California is contrary to the vast weight of Supreme  
63 Court Authority recognizing that the mere mention of God in the  
64 public setting is not contrary to any reasonable reading of the First  
65 Amendment and that governmental entities may, consistent with  
66 the first amendment, recognize the religious heritage of America  
67 and

68     *Whereas*, This house previously adopted a resolution con-  
69 demning the Ninth District Court's decision on July 1, 2002; and

70     *Whereas*, The 107th Congress adopted similar resolutions,  
71 H.R. 459 and S.R. 292, on June 27, 2002, and the Senate in the  
72 108th Congress reaffirmed its position by adopting S.R. 71 on  
73 March 4, 2003; and

74     *Whereas*, The more recent ruling of the U.S. District Court for  
75 the Eastern District of California demonstrates there is a com-  
76 pelling need for reaffirmation of the opinion of this House on the  
77 issue; therefore be it

78     *Resolved*, That it is the sense of this House of Representatives  
79 that:

80       (1) The Pledge of Allegiance, including the phrase "One  
81 Nation, Under God," reflects the historical fact that a belief in  
82 God permeated the founding and development of our nation;

83       (2) The Pledge of Allegiance is not an unconstitutional expression of patriotism;

85       (3) The Pledge of Allegiance is not a prayer or a religious practice and the recitation of the pledge is not a religious exercise;

87       (4) The Pledge of Allegiance is the verbal expression of support for the United States of America, and its effect is to instill support for the United States of America;

90       (5) Individuals who do not share the beliefs expressed in the pledge may refrain from its recitation;

92       (6) The ruling by the Fourth Circuit Court of Appeals correctly finds the Constitution does not prohibit such a recitation; and,

94       (7) The United States Supreme Court should, at its earliest opportunity, resolve this conflict among the circuits in a manner which recognizes the importance and constitutional propriety of the recitation of the Pledge of Allegiance by school children; and

98       be it further

99       *Resolved*, That a copy of these resolutions be forwarded by the Clerk of the House of Representatives to the Clerk of the United States Supreme Court.